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7 UNITED STATES DISTRICT COURT FOR THE
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 EDITHA DAMASCO,

11 Plaintiff,

12 v.

13 UNITED STATES OF AMERICA,

14 Defendant.

NO. 2:17-cv-00641-RSM

STIPULATED MOTION AND
ORDER RE: OFFERING
PORTIONS OF DEPOSITIONS AT
TRIAL

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16 COME NOW the parties, by and through their attorneys of record, and stipulate and
17 respectfully request pursuant to Fed. R. Civ. P. 32(a)(4)(B) and (E) and Local Civil Rule
18 32(e), that witness unavailability and exceptional circumstances make it desirable to permit
19 the following witnesses to testify via deposition:
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- 21 1. Dr. William Clark (Plaintiff's treating physician)
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23 2. Dr. Michael Battaglia (the government's medical expert)
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25 3. Peggy Shibata (the government's engineering and human factors expert)
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27 4. Ashley Giesa (the government's engineering and accident reconstruction expert)

28 The parties make this request due to the unavailability of certain witnesses, in the
interest of limiting expert witness costs, and in order to streamline the presentation of live

1 testimony at trial. The parties have conferred and mutually agreed to presenting expert
2 testimony by deposition, particularly given the difficulty and substantial expense in
3 scheduling physicians to appear live, and in light of fluctuating trial dates.
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5 Additionally, Dr. Battaglia is currently out of the country in Europe on a pre-planned
6 vacation. Ms. Shibata is located in Ann Arbor, Michigan, which would require substantial
7 time and expense for her live appearance. Ms. Giesa is currently in Glendale, Arizona for
8 work through the evening of June 27, 2018. Dr. Clark is also not available and out of the
9 office due to prior scheduled commitments.
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11 Moreover, presenting the witnesses by deposition will help streamline the
12 presentation of live testimony at trial to seven witnesses, thereby ensuring completion of the
13 trial in the allotted two days. The parties regret not filing this notice and motion in advance
14 of the pretrial hearing in this matter, but respectfully request the Court's consideration of this
15 motion at this time in the light of the considerable logistical issues, expense and
16 unavailability of these witnesses to appear live at trial at this time.
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1 DATED this 26th day of June, 2018.

2 SO STIPULATED:

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5 s/ David H. Zielke

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Attorneys for Defendant

ORDER

THIS MATTER having come before the Court on the parties' Stipulated Motion Re: Offering Portions of Depositions at Trial, and the Court having reviewed the Stipulated Motion and the files and records herein:

The Court hereby **GRANTS** the Stipulated Motion and **ORDERS** that the parties may introduce the testimony of the following witnesses via deposition:

1. Dr. William Clark (Plaintiff's treating physician)
2. Dr. Michael Battaglia (the government's medical expert)
3. Peggy Shibata (the government's engineering and human factors expert)
4. Ashley Giesa (the government's engineering and accident reconstruction expert).

DATED this 26th day of June, 2018.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE